

Northern California/Nevada Council Federation of Fly Fishers



May 28, 2008

Mr. David Nawi
Forest Practices Committee
Board of Forestry and Fire Protection
P. O. Box 944246
Sacramento, CA 94244-2460

Dear Mr. Nawi:

I am writing you on behalf of the Northern California Council, Federation of Fly Fishers (NCCFFF). The NCCFFF represents over 6,000 members in 31 fly fishing clubs in Northern California and Northern Nevada. We are actively interested in decisions being made by the Board of Forestry (BOF) and the legislature that have an impact on fisheries habitat in rivers and streams in California.

As part of the T&I rules review, your committee is discussing potential changes to the "Intent/Goal" sections of the rules. We would like your committee to consider using the concept of the "Precautionary Principle" and include this principle in the formation of the future T&I rules. I have attached an article written by Felix Smith, a retired USFWS biologist, who is an active advocate for fisheries protection and a member of the Sacramento Water Forum and the Save the American River Association (SARA). Mr. Smith's article states:

"The premise of the Precautionary Principle is simple. When an activity raises a threat or threats to harm human health or the environment, precautionary measures should be taken even if some cause and effect relationship are not fully established or understood." The Precautionary Principle can be summarized by the Hippocratic Oath, "First, do no harm. Another way to say it; we must error on the side of caution."

After reviewing the public input to the Forest Practice Committee, I identified several issues that I think should be examined in the context of the Precautionary Principle:

1. **Balancing Management Objectives**—The current Forest Practice Rules establish a policy of maximizing sustained production of timber products while giving "consideration" to other human and environmental values. In his comment letter of March 19, Mr. Jonathon Bishop, SWRCB, states "the 303 (d) listing of a water body and/or the listing of a species establishes the critical need to elevate the goal of restoring or conserving the listed

entity **above** the goal of maximizing sustained timber production. Elevating the goal of restoring or conserving above that of maximizing sustained timber production is an excellent example of the Precautionary Principle.

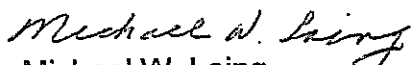
2. Burden of Proof/Evidence—Mr. Bishop also suggests that “303(d) listing or ESA listing of a species should change the burden of evidence so that a project proponent becomes directly responsible for demonstrating that the proposed project can be implemented in a manner that will contribute to recovering and conserving the listed species”. Again, this is an excellent precautionary recommendation.

Since the T&I rules review will no doubt result in a number of suggested changes that your committee will need to evaluate, we request that you keep the Precautionary Principles in mind so that we “First do no harm and err on the side of caution.”

Another area of interest to the NCCFFF is that of protecting headwater streams. In testimony before the BOF in 1999 by Dr. Don Erman, Professor Emeritus, Aquatics/Fisheries Biology, University of California, Davis noted that the “accepted River Continuum Theory recognizes that streams are a continuous gradient of physical variables from the headwaters to the mouth and what happens upstream is linked with conditions and the assemblage of biota downstream” Dr. Erman emphasized that providing wider buffers for Class I and smaller buffers for class II and III streams misses the point that most impacts in a stream come from the watershed above it and if anything these small, headwater streams deserve more protection. Mr. Drew Coe, CVRWQCB, also makes this point in his letter of March 27 where he recommends that T&I protections on streams above barriers to migration in order to protect fish populations down stream.

Thank you for your consideration of my comments and I can provide a copy of Dr. Erman’s letter of September 7, 1999, if you wish.

Very truly yours,


Michael W. Laing
Northern California Council
Federation of Fly Fishers

CC:
Mark Rockwell
NCCFFF Conservation VP

The Precautionary Principle

by Felix Smith

We are starting to hear within the environmental community about the Precautionary Principle. It was formulated in Europe, then added to the 1992 Rio Declaration on Environment and Development and then in the United States in 1998 at the Wingspread Conference sponsored by the Science and Environmental Health Network, among other sources.

The premise of Precautionary Principle is simple. When an activity raises a threat or threats to harm human health or the environment, precautionary measures should be taken even if some cause and effect relationship are not fully established or understood. The Precautionary Principle can be summarized as the Hippocratic oath "First, do no harm. Do not make matters any worse than they are." *Another way to say it; we must err on the side of caution.*

The Precautionary Principle is based on the concept that people have a fundamental right to enjoy life and their environment free of fear. Those who put toxic chemicals or trace elements into the air, water or on land, whether as a waste or as a product - deny people that right. Almost everyone recognizes that denying such a basic right is wrong.

For example, when toxic chemicals trace elements (man-made or generated by man's activities) enter our food supply or the food chain of fish or wildlife, or enter our bodies and those of our children without our consent, is a toxic trespass. Such a trespass is wrong. (Steingraber - 1998)

The Precautionary Principle calls for preventive anticipatory measures should be implemented when an activity raises threats of harm to our environment (water, land, air), fish and wildlife habitats, or human health.

The precaution must be how to prevent damage to our environment, fish and wildlife (individuals and populations) or people. The more irreversible the alteration or change and possible impacts, the greater should be the caution (Raffensperger et al - 2000, Myers in Myer and Raffensperger - 2006).

Precaution means pro-active and protective. No one wants to push a species or population to extinction. The collapse of an ecosystem is not an option. People and regulatory agencies must ask how much harm can be avoided, not how much harm or impact a resource can tolerate? Not how much pollution a body of water can assimilate? Not how much impact the resource can tolerate before there is population collapse? The questions must be focused on: - What must be done in the way of operational changes and physical fixes to assure that a healthy and sustainable ecosystem and associated fish and wildlife populations will continue to thrive? What must be done to help assure resource and ecosystem renewability and the non-degradation of tributary streams and adjacent upland ecosystems?

The Precautionary Principle challenges governmental agencies and corporations to prevent harm before it occurs. Some challenges: 1. Agencies and corporations have a duty to take anticipatory action to prevent harm to resources, uses and ecological values; 2. Agencies and corporations are challenged to prevent harm to land and water resources, associated uses and ecological values before harm occurs; and 3. This should force agencies and corporations to address uncertainty and the potential for major harm, both immediate and long term. The burden of proof of harmlessness or insignificant impact of a new technology, process, activity or chemical lies with its proponents, not with the general public (Myers and Raffensperger - 2006).

American River Parkway Foundation 2008 Event Calendar

- Saturday, 5/03/08 - Parkway Half Marathon - William Pond Recreation Area - 5 hours**
- Saturday, 6/07/08 - National Trails Day - Location tba**
- Saturday, 6/14/08 - Rex Ride - William Pond Recreation Area - 4 hours**
- Saturday, 7/05/08 - Weed Warriors - Location tba**
- Saturday, 8/02/08 - Down River Day - Goethe Park - 4 hours**
- Saturday, 9/20/08 - Great American River Cleanup -available.**

916-486-2773 ext. 10 // www.arpf.org // volunteer@arpf.org for information